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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/761,054	01/15/2001	Thomas J. Dudley	CORE-62	4993
34845	7590	12/13/2004	EXAMINER	
STEUBING AND MCGUINNESS & MANARAS LLP			KIM, DAVID S	
125 NAGOG PARK			ART UNIT	
ACTON, MA 01720			PAPER NUMBER	
			2633	

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/761,054

Applicant(s)

DUDLEY, THOMAS J.

Examiner

David S. Kim

Art Unit

2633

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 November 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: \_\_\_\_\_

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☒ The drawing correction filed on 01 November 2004 is a) ☒ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

Continuation of 5. does NOT place the application in condition for allowance because:

Applicant's arguments are not found to be persuasive. Applicant's arguments address the rejection of three separate claims with the same main point.

Regarding this main point, Applicant states,

"Claims 1, 5 and 6 distinguish the cited combinations because a tunable filter is used to modulate reflection of the light signal from the central office to transmit a signal back to the central office" (filed on 01 November 2004, p. 4, 1<sup>st</sup> sentence of 2<sup>nd</sup> paragraph).

To contrast against the standing rejection, Applicant refers to the Office Action (mailed 03 September 2004),

"At the bottom of page 5 of the Office Action the Office concedes that the combination of Albanese in view of Wright in view of de Corlieu does not disclose the tunable filter being selectively tuned to a wavelength different than the wavelength of the central office's CW laser. However, the Office suggests that de Corlieu implicitly teaches the feature since a Fabry-Perot filter is used. Applicant respectfully disagrees. The tunable filter recited in claims 1, 5 and 6 not only filters the incoming light, but also selectively reflects the light from the CW laser to transmit a signal back to the central office" (filed on 01 November 2004, p. 4, 2<sup>nd</sup> paragraph).

Applicant then concludes,

"Hence, claim 1 distinguishes the cited combinations by reciting 'said tunable filter being placed between the downstream station's RX unit and said central office to selectively reflect a signal received from the CW laser on the bi-directional fiber back to the central office.' Similarly, claim 5 distinguishes the cited combination by reciting 'said tunable filter being placed between the downstream station's means for receiving a light signal and said central office, the tunable filter for selectively reflecting a signal received from the central office on the bi-directional fiber back to the central office on the bi-directional fiber.' Similarly, claim 6 distinguishes the cited combinations by reciting 'so that the station's tunable filter will selectively reflect light received from the CW laser on the bi-directional fiber back to the central office on the bi-directional fiber, with said tunable fiber being selectively tuned so as to modulate the light being reflected back to the central office, whereby to effectively create an upstream transmission from the downstream station to the central office.' Withdrawal of the rejections of claims 1, 5 and 6 is therefore requested" (filed on 01 November 2004, p. 4-5, bridging paragraph).

Examiner respectfully finds difficulty in seeing how Applicant's reference to the Office Action supports Applicant's main point and conclusion. That is, the Applicant's main point and conclusion appear to regard the tunable filter being used to modulate reflection of a light signal from a central office to transmit a signal back to the central office. On the other hand, Applicant's citation of the Office Action appears to regard a disagreement about whether or not a Fabry-Perot filter of de Corlieu is selectively tuned to a wavelength different than the wavelength of the central office's CW laser. Examiner finds it difficult to see how the tuning of this Fabry-Perot filter of de Corlieu to a wavelength different than the wavelength of the central office's CW laser directly addresses the selective reflecting of claims 1, 5 and 6.

In particular, the treatment of claims 1 and 5 does not rely on de Corlieu at all. Therefore, Examiner finds it difficult to consider Applicant's arguments to be persuasive against the rejections of claims 1 and 5.

However, the treatment of claim 6 does rely on de Corlieu. Therefore, Examiner considers Applicant's arguments with regard to claim 6. As stated above, Applicant disagrees to a portion of the Office Action. That is, the Office Action states that de Corlieu implicitly teaches the tunable filter being selectively tuned to a wavelength difference than the wavelength of the central office's CW laser. Applicant respectfully disagrees. However, Applicant presents no further explanation of this disagreement. Accordingly, without further explanation of the specific distinctions between the claims and the references, it appears that Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Thus, Examiner finds it difficult to consider Applicant's arguments to be persuasive against the rejection of claim 6.

Summarily, Applicant's arguments are not persuasive. Accordingly, Examiner respectfully maintains the standing rejections.

  
**M. R. SEDIGHIAN**  
**PRIMARY EXAMINER**